

Serial No. 10/443,571

Page 8 of 10

REMARKS

Claims 8 and 11 have been canceled. Claims 1-7, 9-10, and 12-18 remain pending in the application. Applicant amends claims 1-2, 15-16, and 18 for clarification, and refers to Figs. 8, 13, and 15, and their corresponding description in the specification for an exemplary embodiment of and support for the claimed invention. No new matter has been added.

Applicant respectfully requests that the Examiner indicate acceptance of the drawings.

The Examiner objected to claims 15-16 for apparent informalities, which Applicant corrects in accordance with the Examiner's suggestion. Accordingly, Applicant respectfully requests that the Examiner withdraw the objection.

Claims 1-7, 9, 10, 12-14, and 16-18 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent No. 6,201,810 to Masuda et al. in view of Japanese Patent Application Publication No. 2000-174755 to Furudono et al.; and claim 15 stands rejected under 35 U.S.C. § 103 (a) as being unpatentable over Masuda et al. in view of Furudono et al., and further in view of U.S. Application Publication No. 2002/0133584 to Greuel et al. Applicant amends claims 1-2, 15-16, and 18 in a good faith effort to clarify the invention as distinguished from the cited references, and respectfully traverses the rejections.

Neither Masuda et al. nor Furudono et al. discloses or suggests the claimed feature of congestion information including an exception condition for traffic that does not use a congestion avoiding route when the congested state is detected. Thus, even assuming, arguendo, that it would have been obvious to combine Masuda et al. and Furudono et al. in the manner proposed at the time the claimed invention was made, the combination would still have failed to teach or suggest,

84165156_1

“[a] communication device connectable to an IP network, comprising:
 an input queue holding received packets until the packets are sent for a next process;
 a congestion monitor unit monitoring the input queue and determining whether the communication device is congested;
 a congestion information creating unit creating congestion information concerning a congested state of the communication device, including an exception condition for traffic that does not use a congestion avoiding route when the congestion monitor unit detects the congested state thereof, the congestion information being sent to other devices connected to the IP network; and
 wherein said congestion monitor further monitors a frequency of occurrence of congestion
 a unit for determining a route that can avoid congestion for an input packet based on a frequency of occurrence of congestion at a packet destination of the input packet,” as recited in claim 1.
 (Emphasis added)

Accordingly, Applicant respectfully submits the claim 1, together with claims 2-7, 9, 10, and 12-14 dependent therefrom, is patentable over Masuda et al. and Furudono et al., separately and in combination, for at least the foregoing reasons. Claims 16 and 18 incorporate features that correspond to those of claim 1 cited above, and are, therefore, together with claim 17 dependent from claim 16, patentable over the cited references for at least the same reasons. The Examiner relied upon Greuel et al. as a combining reference to specifically address additional features recited in claim 15, which also incorporates features that correspond to those of claim 1 cited above. As such, the addition of Greuel et al. would still have failed to cure the above-described deficiencies of Masuda et al. and Furudono et al., even assuming, arguendo, that such addition would have been obvious to one skilled in the art. Accordingly, Applicant respectfully submits that claim 15 is patentable over the cited references for at least the foregoing reasons.

The above statements on the disclosure in the cited references represent the present opinions of the undersigned attorney. The Examiner is respectfully requested to specifically

84165156_1

Serial No. 10/443,571

Page 10 of 10

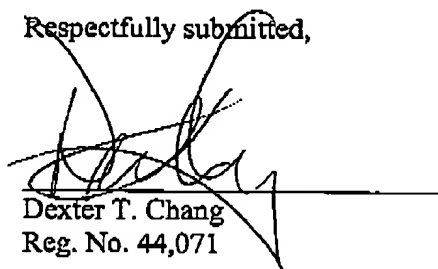
indicate those portions of the respective reference that provide the basis for a view contrary to any of the above-stated opinions.

Applicant appreciates the Examiner's implicit finding that the additional reference made of record, but not applied, does not render the claims of the present application unpatentable, whether this reference is considered alone or in combination with others.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,



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DTC:bf

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